



New requirements for corporate officers

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Benefits were being paid without appropriate tax collection

New default assumption is that officers will be covered unless specifically exempted

Recent changes in state law have resulted in new requirements for officers of corporations who provide services in Washington. Changes were adopted due to concern that some corporations were not paying unemployment insurance taxes on corporate officers until right before they claimed benefits, resulting in higher costs passed on to other employers. There was also some evidence that some corporate officers received unemployment benefits while the company stayed open and operating.

Timetable

The changes affecting corporate officers were phased in, as follows.

As of July 2007, corporate officers are required to be registered with Employment Security (RCW 50.12.070).

As of January 2008, the circumstances under which corporate officers could receive unemployment benefits were modified (RCW 50.04.310):

- Officers cannot get unemployment benefits if they own at least 10 percent or are related to another corporate officer who owns at least 10 percent of the business.
- Officers can collect benefits if they resign as an officer or if the business folds.

As of January 2009, corporations must apply for exemptions if they choose not to cover corporate officers for unemployment insurance (RCW 50.04.165).

Corporate officers will be covered in 2009 unless exempted

Through 2008, corporate officers are exempt from unemployment insurance unless their employer elects to cover them and pays unemployment taxes for those individuals. Starting in January 2009, in-state corporate officers will be covered for unemployment insurance unless their employer specifically exempts them.

Pros and cons of coverage and exemption

If corporate officers are covered for unemployment, they must be reported as employees and state unemployment-insurance taxes must be paid on their wages each quarter. This also means that they may be eligible for unemployment benefits if they lose their jobs.

If officers are exempt from coverage, corporations are not required to report them nor pay state unemployment-insurance taxes on them, and the officers would not be eligible for benefits if they lose their jobs. However, the corporation must pay full federal unemployment-insurance taxes (FUTA) on them.

Corporations may exempt some officers and not others

Nothing in the 2009 requirement restricts a corporation from choosing to exempt some officers and not others. However, once a corporation chooses to exempt an officer, the corporation cannot elect to reinstate the officer except under very limited conditions. For certain private corporations, no more than eight officers may be exempted.

Exemption-request deadlines

If a corporation requests an exemption when it first registers as an employer, the exemption takes effect immediately. If it requests an exemption after the business is registered, a request must be sent to Employment Security by January 15 for the exemption to take effect that year. If postmarked or faxed after January 15, the exemption will not take effect until the following year. This also applies to officers elected or appointed after January 15. The law provides that an exemption can take effect only on January 1 and does not allow it to be retroactively applied after January 15.

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